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Fresno, California

September 28, 2004

The City Council met in regular session at the hour of 8:33 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager
 Jon Ruiz, Assistant City Manager
 Hilda Cantu Montoy, City Attorney
 Becky Klisch, City Clerk
 Yolanda Salazar, Assistant City Clerk

Instead of an invocation, a musical presentation was given by District 2 Council Assistant Josh McDonald and his brother Kevin. President Castillo led The Pledge of Allegiance.

PROCLAMATION OF FIRE PREVENTION WEEK - COUNCILMEMBER STERLING

RESOLUTION OF COMMENDATION TO APOLONIO MUNOZ, FRESNO AREA EXPRESS BUS DRIVER - CITY MANAGER'S OFFICE

The above proclamation and resolution were read and presented.

APPROVE MINUTES OF SEPTEMBER 21, 2004:

On motion of Acting President Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the minutes of September 21, 2004, hereby approved, with clarifications made by Councilmember Sterling and Acting President Perea on the 4:30 p.m. "No Neighborhood Left Behind" item, that Councilmember Sterling's Council Assistant and Acting President Perea did *not* attend the meeting as stated by Deputy Mayor Montero in his comments on Page 144-86, Paragraph 8. This clarification was also included at the bottom of Page 86.

COUNCIL MEMBER REPORTS AND COMMENTS:

FRESNO FAIR AND COMMENDATION TO PUBLIC WORKS, BRUCE RUDD OF FAX, JESS GARCIA AND PHILLIP WEATHERS FOR SOUTHEAST CLEAN UP EFFORTS, UPCOMING CLEAN-UP WORK, AND BUS RIDES FOR SENIORS FOR THE UPCOMING FAIR - COUNCILMEMBER DAGES

Commendations made.

COMMENDATION TO ALL INVOLVED, INCLUDING POLICE AND FIRE DEPARTMENTS, ON THE SUCCESSFUL CAR SHOW EVENT HELD AT THE HINTON CENTER THIS PAST WEEKEND - COUNCILMEMBER STERLING

Commendation made.

CONCERN WITH AMOUNT OF AGENDA MATERIAL SCHEDULED AND RECEIVED BY COUNCIL LATE FRIDAY TO PREPARE FOR TUESDAY'S MEETING - COUNCILMEMBER STERLING

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Concern expressed.

COUNCIL TOUR OF THE VETERAN'S MUSEUM ON OCTOBER 5TH AT 12:00 NOON - COUNCILMEMBER CALHOUN

Councilmember Calhoun reminded Council of the tour and asked them to reserve that time and added staff and the public were also welcomed to attend the tour.

LANDSCAPE MAINTENANCE ISSUE AND CONCERN WITH DEAD TREES AND SHRUBS ON BLACKSTONE AVENUE NORTH OF BARSTOW AVENUE - COUNCILMEMBER CALHOUN

Councilmember Calhoun expressed his strong concern and disappointment stating he helped to plant the greenery and questioned how that stretch of Blackstone could slip through staff's finger, with Assistant City Manager Ruiz stating he would send staff to look at the area this date.

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APPROVE AGENDA:

(9:00 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY:

("C") CONSIDERATION AND DIRECTION ON REPORT BY THE AGENCY BOARD COMMITTEE REGARDING THE PROCESS FOR RECRUITMENT OF THE EXECUTIVE DIRECTOR (AGENCY ACTION)

-and-

("D") ACCEPT CITY MANAGER'S OFFICE RECOMMENDATION TO RETAIN MATRIX CONSULTING GROUP/ROSENOW SPAVACEK TO CONDUCT A MANAGEMENT STUDY OF THE REDEVELOPMENT AGENCY

1. AUTHORIZE THE AGENCY COMMITTEE TO NEGOTIATE A CONTACT WITH MATRIX CONSULTING GROUP/ROSENOW SPAVACEK AND TO RETURN TO THE AGENCY BOARD FOR CONTRACT APPROVAL AND CONTRACT FUNDING (AGENCY ACTION)

Councilmember Boyajian made a motion to table the above two items to February 1, 2005.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, Items 9:00 a.m. "C" and "D" tabled to February 1, 2005, by the following vote:

Ayes :	Boyajian, Dages, Duncan, Sterling
Noes :	Calhoun, Perea, Castillo
Absent :	None

(*Note: Council Comments made on this action under "Public Comment Period/Unscheduled Communication")

(9:00 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY:

("A") APPROVE RESPONSES TO THE 2003-2004 GRAND JURY REPORT

1. APPROVE CITY RESPONSES TO THE GRAND JURY REPORT
2. APPROVE REDEVELOPMENT AGENCY RESPONSE TO THE GRAND JURY REPORT

Councilmember Calhoun stated he was very disappointed Council only had three days to review these reports and had only one week to meet the deadline to return the responses to the Grand Jury and spoke to the need for additional time to review and study the material.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled 9:00 a.m. "A" item tabled one week, by the following vote:

Ayes :	Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	Boyajian
Absent :	None

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President Castillo questioned what resources Council had to address the Grand Jury's concerns and how the concerns were addressed by the administration, with City Attorney Montoy stating a sub-committee could be formed to work with staff to come up with responses that might be more reflective of the entire city. President Castillo appointed himself and Councilmembers Calhoun and Sterling to serve on the committee.

(9:00 A.M. #2) PUBLIC COMMENT PERIOD:

(A) SCHEDULED PUBLIC COMMENT - APPEARANCE BY GARY DENNIS TO INTRODUCE AND REQUEST COUNCIL SUPPORT OF THE ORGANIZATION OF THE CALIFORNIA HIV AIDS ADVOCACY NETWORK GRASSROOTS EVOLUTION OF THE SAN JOAQUIN VALLEY (CHANGE)

Laid over to October 19, 2004, at the request of Mr. Dennis.

(1-C) REJECT THE LOW BID AND AWARD A REQUIREMENTS CONTRACT TO BSK ANALYTICAL LABORATORIES, INC., OF FRESNO FOR WATER QUALITY TESTING SERVICES FOR THE WATER DIVISION, INCLUDING THE NEW SURFACE WATER TREATMENT FACILITY (REBID)

Removed from the agenda by staff due to an appeal filed.

(1-M) RESOLUTION - APPROVING THE FINAL MAP OF TRACT NO. 5145 AND ACCEPTING DEDICATED PUBLIC USES THEREIN, PROPERTY LOCATED SOUTH OF W. SHIELDS, NORTH OF W. CLINTON, WEST OF N. VALENTINE AND EAST OF N. BRAWLEY AVENUES; AND AUTHORIZING THE PUBLIC UTILITIES, PUBLIC WORKS, AND PLANNING AND DEVELOPMENT DIRECTORS TO EXECUTE THE NECESSARY DOCUMENTS

Removed from the agenda by staff.

(10:00 A.M.) HEARING ON COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 77, FINAL TRACT MAP NO. 5370

1. RESOLUTION - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX
2. RESOLUTION - CALLING A SPECIAL MAILED-BALLOT ELECTION
3. RESOLUTION - DECLARING ELECTION RESULTS
4. BILL - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

Continued to a later date at the request of the developer; date to be set.

(2-D) APPROVE RENEWAL OF LEASE AGREEMENT BETWEEN THE CITY AND COMPREHENSIVE YOUTH SERVICES (CYS)

At the request of CYS the matter was set for 10:00 a.m. this date for their convenience.

(4:00 P.M.) TRIMESTER PLAN AMENDMENTS HEARINGS:

(H) CONSIDER PLAN AMENDMENT APPLICATION NO. A-04-17, INITIATED BY THE PLANNING AND DEVELOPMENT DIRECTOR UPON REQUEST OF DISTRICT 5 COUNCILMEMBER DAGES, RELATING TO AMENDMENTS TO ROOSEVELT COMMUNITY PLAN POLICY NOS. 1-17.1 AND 1-17.3 (PROPERTY LOCATED IN DISTRICTS 3, 4, 5, 7)

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-03-17
2. RESOLUTION - AMENDING THE ROOSEVELT COMMUNITY PLAN'S 5% ON-SITE OPEN SPACE REQUIREMENT IN ORDER TO ALLOW SINGLE-FAMILY RESIDENTIAL DEVELOPMENTS THE ALTERNATIVE OF PROVIDING EQUIVALENT PUBLIC OPEN SPACE AREA, OR OF PAYING AN EQUIVALENT AMOUNT OF FUNDS FOR ACQUISITION OR IMPROVEMENT OF PUBLIC OPEN SPACE AREA, OFF-SITE WITHIN 3 MILES OF THE DEVELOPMENT

Councilmember Dages requested the above item be continued to October 19th due to some matters that still needed to be worked. The hearing was continued to October 19th at 3:00 p.m.

(4:00 P.M.) TRIMESTER PLAN AMENDMENTS HEARINGS:

(A) JOINT PUBLIC HEARING WITH THE REDEVELOPMENT AGENCY TO CONSIDER PLAN AMENDMENT AND REZONING MATTERS RELATING TO THE HOPE VI PROJECT FILED BY DIRK POESCHEL LAND DEVELOPMENT SERVICES ON BEHALF OF THE HOUSING AUTHORITY OF CITY OF FRESNO

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Councilmember Sterling advised she would be recusing herself from the above proceedings at the appointed time pursuant to the advice of the city attorney and the rules of the Political Reform Act due to a conflict of interest stating her family, the Sterling Family Trust, owned land within the project area.

(1-P) ACCEPTANCE OF CIVIL SERVICE BOARD RECOMMENDATION THAT ELECTED OFFICIALS' (COUNCIL, COUNCIL PRESIDENT AND MAYOR) COMPENSATION REMAIN THE SAME

Councilmember Calhoun stated this item was not time sensitive and requested the matter be laid over to October 26th to have the members of the civil service commission present. The matter was set for October 26th at 11:00 a.m.

(9:00 A.M. #1) JOINT MEETING WITH THE REDEVELOPMENT AGENCY:

("B") HEARING TO CONSIDER APPROVAL OF THE DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) BETWEEN THE AGENCY AND "MASTER DEVELOPER" NOYAN/FRAZIER PROPERTIES LLC, AND THE SALE OF THE MID STATE BOWL PROPERTY AT THE SOUTHWEST CORNER OF CLINTON AND WEBER AVENUES (JOINT ACTION)

(CONTINUE TO OCTOBER 19, 2004, AT 2:30 P.M.)

Continued as noted.

A motion and second was made to approve the agenda. President Castillo clarified he would be voting "no" due the removal of Agency items "C" and "D" and Councilmember Calhoun stated he would also vote "no" for the same reason.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the **AGENDA** hereby approved, as modified, by the following vote:

Ayes :	Boyajian, Dages, Duncan, Sterling
Noes :	Calhoun, Perea, Castillo
Absent :	None

CONSIDER CONSENT CALENDAR:

Christine Walter, Comcast, spoke to Item **1-R** stating although minor changes were made to the proposed ordinance they felt there were still a number of troublesome provisions that needed to be brought to Council's attention and requested the matter be pulled from the consent calendar for discussion.

Councilmember Boyajian pulled Items **1-G**, **1-I** and **1-R**, and Councilmember Calhoun pulled items **1-E** and **1-O** for discussion.

ADOPT CONSENT CALENDAR:

(1-A) RESOLUTION NO. 2004-333 - ACCEPTING SEATBELT AWARENESS FOR EVERYONE ("SAFE") GRANT PROGRAM FUNDING OF \$227,383 THROUGH THE STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS

1. RESOLUTION NO. 2004-334 - 25TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$101,400 IN GRANT FUNDS FROM THE OFFICE OF TRAFFIC SAFETY TO THE POLICE DEPARTMENT TO FUND THE "SAFE" GRANT PROJECT

2. RESOLUTION NO. 2004-335 - 10TH AMENDMENT TO PAR 2004-210 FOR THE "SAFE" GRANT PROJECT

(1-B) RESOLUTION NO. 2004-336 - ACCEPTING DRIVING IMPAIRED MOTORIST ENFORCEMENT ("DIME") GRANT PROGRAM FUNDING OF \$708,087 THROUGH THE STATE OF CALIFORNIA OFFICE OF TRAFFIC SAFETY AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS

1. RESOLUTION NO. 2004-337 - 24TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$363,500 IN GRANT FUNDS FROM THE OFFICE OF TRAFFIC SAFETY TO THE POLICE DEPARTMENT TO FUND THE "DIME" GRANT PROJECT

2. RESOLUTION NO. 2004-338 - 8TH AMENDMENT TO PAR 2004-210 FOR THE "DIME" GRANT PROJECT

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(1-D) ADOPT RESOLUTION OF INTENTION NO. 1036-D TO VACATE THE NORTHWEST FOUR FEET OF AMADOR STREET BETWEEN "H" AND BROADWAY STREETS AND RESERVE A PUBLIC UTILITY EASEMENT OVER A PORTION OF THE AREA TO BE VACATED, AND SETTING THE REQUIRED PUBLIC HEARING FOR OCTOBER 26, 2004

(1-F) RESOLUTION NO. 2004-340 - APPROVING THE SUMMARY VACATION OF A PORTION OF AUDUBON DRIVE NORTH OF NEES AVENUE

(1-H) APPROVE EXTENSION OF THE CURRENT PARKING MANAGEMENT AGREEMENT BETWEEN THE CITY AND AMPCO PARKING SERVICES FROM SEPTEMBER 30, 2004, TO FEBRUARY 28, 2005; AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE EXTENSION ON BEHALF OF THE CITY

(1-J) CONSIDER THE PROPOSED SPENDING PLAN FOR FISCAL YEAR 2005 STATE OF CALIFORNIA SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF) OF \$669,675

1. AUTHORIZE THE ACCEPTANCE OF THE AWARD AND PROPOSED SPENDING PLAN

2. **RESOLUTION NO. 2004-341** - 18TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$85,100 FOR EXPENSES ASSOCIATED WITH THE STATE SLESF

3. **RESOLUTION NO. 2004-342** - APPROVING THE REALLOCATION OF \$582,300 FROM CONTINGENCY TO MEET EXPENSES ASSOCIATED WITH THE POLICE DEPARTMENT'S SLESF

(1-K) APPROVE LEASE AGREEMENT BETWEEN THE CITY AND HERMAN L TOEWS FOR ADDITIONAL PROPERTY SPACE AT 1635 AND 1639 "E" STREET FOR USE AS A RECORDS STORAGE FACILITY, AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO SIGN THE LEASE AGREEMENT

(1-L) AUTHORIZE THE GENERAL SERVICES DIRECTOR TO ENTER INTO AGREEMENTS WITH THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT (SJVAPCD) HEAVY DUTY ENGINE INCENTIVE PROGRAM TO RECEIVE \$523,257 OF GRANT FUNDS TO BE USED TO MITIGATE 57% OF THE INCREMENTAL COST OF 20 NEW LIQUID NATURAL GAS (LNG) POWERED REFUSE TRUCKS AND 39% OF THE COST OF 40 EXHAUST AFTER-TREATMENT RETROFITS ON EXISTING REFUSE TRUCKS

(1-N) RESOLUTION NO. 2004-343 - APPROVING THE FINAL MAP OF TRACT NO. 5233 AND ACCEPTING DEDICATED PUBLIC USES THERE, PROPERTY LOCATED ON THE SOUTHEAST CORNER OF E. SHIELDS AND N. ARMSTRONG AVENUES IN COUNCIL DISTRICT 4

1. AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE THE SUBDIVISION AGREEMENT, THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR LANDSCAPE MAINTENANCE, AND THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT FOR TEMPORARY STORM DRAINAGE FACILITIES

2. AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT PROVIDING FOR SANITARY SEWER CAPACITY IN THE FOWLER AVENUE TRUNK SEWER AND DEFERRING PAYMENT OF INTERIM FEE SURETY TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

3. AUTHORIZE THE PLANNING AND DEVELOPMENT DIRECTOR TO EXECUTE THE STATEMENT OF COVENANTS AFFECTING LAND DEVELOPMENT DEFERRING CERTAIN SEWER CONNECTION CHARGES, WATER CONNECTION CHARGES, URBAN GROWTH MANAGEMENT FEES AND DEVELOPMENT FEES TO THE TIME OF ISSUANCE OF CERTIFICATE OF OCCUPANCY AND CREATION OF LIEN

(1-Q) RESOLUTION NO. 2004-344 - REQUEST THE CITY'S STATE LEGISLATIVE DELEGATION TO ENCOURAGE THE DEPARTMENT OF MOTOR VEHICLES (DMV) TO REVISE DMV LICENSING EXAMS TO INCLUDE MOTORIST AWARENESS OF THE VISUALLY IMPAIRED (INCLUDE LANGUAGE IN THE TEST THAT WOULD ASSOCIATE THE USE OF WHITE CANES AND GUIDE DOGS WITH VISUALLY IMPAIRED INDIVIDUALS)

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

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(9:00 A.M. #2 "B") PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION:

COUNCIL ACTION TAKEN ON REDEVELOPMENT AGENCY ITEMS "C" AND "D"

President Castillo expressed his strong concern and disappointment with Council's, and especially his two colleagues who served on the sub-committee with him, action removing Agency Items "C" and "D" from the agenda, stated good dialogue occurred with staff and apologized to them for all the work they did on the issue, and stated all he wanted to do was ask the professionals some questions to see if the job could be done better and elaborated **(2 - 0)**. Councilmember Calhoun also expressed his disappointment adding this was nothing more than an attempt at good government, stated although Interim Director Murphey was qualified he was shocked by Council saying they were not going to pursue a director for five months, thanked staff for their work, and stated this showed the current model was inappropriate. Councilmember Boyajian stated the Agency was doing very well, stressed what was needed at this time was stability as there were millions of dollars of investment and Ms. Murphey and FRC Director Morgan and their leadership were needed, and stated the Agency strove for independence and got it, they were on the right track, and asked the Council/Agency to give Ms. Murphey six to nine months to continue to the job.

(2-A) INFORMATIONAL REPORT ON THE RESULTS OF SPECIAL ACTUARIAL STUDIES PROJECTING THE AVAILABILITY OF SURPLUS EARNINGS IN THE RETIREMENT SYSTEMS OVER THE NEXT SIX (6) ACTUARIAL VALUATIONS

Retirement Administrator McDivitt noted this was a follow up from last year and reviewed the issue as contained in the Retirement Board's report as submitted.

General discussion ensued on how retirement systems operate, Fresno's well-funded systems, the city having to "kick into" the system very soon, surplus projections, staff's comfort with the DROP program, contributions coming from the general fund, more cities changing to defined payment/benefit plans for their systems, staff's plan to fund the system in 2007, need for staff to look at defined payments plans/401Ks that are more predictable in the long run, and the pension contribution cash flow funding police positions and what the alternatives would have been, with Mr. McDivitt, Assistant City Manager Souza, Controller Quinto and City Manager Hobbs responding to questions throughout. This was an informational report and no action was required.

(9:30 A.M.) PRESENTATION ON THE STATE IMPACT ON THE GENERAL FUND

The presentation was given by Mayor Autry, Controller Quinto and Budget Manager Smith who covered the issues of Proposition 1A, the city's proactive approach in developing and implementing contingency plans, the local economy and community contributions, the city's contributions to the state's budget deficit and the revenue sources/projections (displaying schedules/graphs to illustrate), and expenditure and encumbrance results and the departmental results, and along with City Manager Hobbs responded to questions of Councilmember Duncan, President Castillo and Councilmember Calhoun throughout relative to Propositions 1A and 65 **(3 - 0)**, FY 2005's shortfall, and the importance of, and where the city was, on the "crossing lines" where a tax increase or lay offs may occur. This was an informational presentation and no action was required.

(2-D) APPROVE RENEWAL OF LEASE AGREEMENT BETWEEN THE CITY AND COMPREHENSIVE YOUTH SERVICES (CYS)

Councilmember Calhoun noted this agreement has been in effect for thirty years, stated CYS was getting a major benefit from the city and most social welfare organizations do not get any subsidy or assistance from the city, and questioned how this came about, how this agreement was working, who was responsible for upkeep/utilities, if the city does anything similar for any other organization, this being a fairness issue, if this was a unique situation or policy the city follows, if an effort has been made these past 30 years to ask other organizations if they feel they should occupy the building, and if there was a reason for no competition, with Interim Parks & Recreation Director Putnam and City Manager Hobbs, responding throughout.

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Kathleen McIntyre, CYS Assistant Director, explained what the home was used for and presented their case for staying there. Councilmember Sterling commented on the issue and stated her support for CYS and renewing the lease with them **(4 - 0)**. CYS Executive Director Jackie Smith-Garcia spoke further to the issue and stressed the facility was the key to provide services, and Ms. McIntyre spoke to CYS's 30-year partnership with the city. Councilmember Calhoun stated this was not an issue of whether CYS was a good organization stating they were a fine organization and clarified the issue was a financial one (monthly city subsidy). Ms. McIntyre responded briefly to questions of President Castillo relative to what specific programs were run out of the facility and if it was an overnight facility.

Councilmember Dages stated the city of Fresno should not be in the business of real estate and made a motion to extend the lease for one year and direct the city manager to sell the property. The motion was seconded by Councilmember Duncan and acted upon after Ms. McIntyre and Ms. Smith-Garcia responded to additional questions of President Castillo relative to original use of the property and if the CYS Board ever made an attempt to purchase the home. President Castillo advised he would be abstaining in the vote because he was unsure if he had a conflict due to his nature of work, and stated he would sit with the city attorney and depending on the vote he may bring the issue back later.

A motion of Councilmember Dages, seconded by Councilmember Duncan, to extend the lease for one year and direct the city manager to sell the property failed, by the following tie vote:

Ayes :	Calhoun, Dages, Duncan,
Noes :	Boyajian, Perea, Sterling
Absent :	None
Abstain :	Castillo

Upon question, City Attorney Montoy advised the lease could continue on a month-to-month basis until a determination is made on President Castillo and if he is unable to participate she would work with the city manager to bring back other options including a more complete package relative to sale of the property. Councilmember Sterling requested she be kept informed every step of the way.

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(10:30 A.M.) CONTESTED CONSENT CALENDAR:

(1-E) ADOPT RESOLUTION OF INTENTION NO. 1037-D TO VACATE A PORTION OF JAMES STREET BETWEEN HERNDON AVENUE AND ELGIN STREET AND FARRINGTON STREET BETWEEN FREEWAY 99 AND JAMES STREET, AND SETTING THE REQUIRED PUBLIC HEARING FOR OCTOBER 26, 2004

Councilmember Calhoun spoke to the background of the issue, stated he was very sensitive to what would go in there because it was an entry into the city, and presented questions relative to what was happening with this property/if anything unusual was happening here, what the process would be should the developer "bail out", need to hold the developer's feet to the fire until it is known what is happening out there, and if there was a need to delay action, with Interim Public Works Director Kirn, Planning Manager Unruh and Planning & Development Director Yovino responding. President Castillo briefly left the meeting at 11:16 a.m. Mr. Yovino stated he would make sure when any site plan or CUP is filed any issues dealing with access, road abandonments or site design will be dealt with adding he recalled there were some design guidelines/conditions on the zoning.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution of Intention No. 1037 hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Sterling, Perea
Noes :	None
Absent :	Castillo

(1-G) RESOLUTION NO. 2004-345 - AUTHORIZING THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN A COOPERATIVE AGREEMENT WITH THE STATE DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS ASSOCIATED WITH RELINQUISHMENT OF HIGHWAY 180 WEST, FROM HIGHWAY 99 TO THE HUGHES/WEST DIAGONAL

President Castillo returned to the meeting at 11:19 a.m. Councilmember Boyajian referenced the staff report and questioned the meaning of the funds being "*in lieu*" of improvements, if there was a guarantee the money would stay in the area, and if partnering with the RDA was a way to leverage funds.

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On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2004-345 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(1-I) RESOLUTION NO. 2004-346 - 17TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$6,806,600 FOR THE COMPLETION OF FIRE STATION NOS. 15 AND 17 (PREVIOUSLY NO. 21) PROJECTS

Interim Public Works Director Kirn and City Attorney Montoy responded to questions of Councilmember Boyajian relative to amount of money in the at-grade crossing funds, if these funds would be repaid, if this would jeopardize any crossings, if funds would transferred at some time to areas that have crossing areas, and if the money could be used for other uses.

On motion of Councilmember Boyajian, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2004-346 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

(1-O) RESOLUTION NO. 2004-347- AUTHORIZING ACCEPTANCE OF FY 2004 CYCLE STATE HOMELAND SECURITY PROGRAM SUBGRANT FUNDS OF \$713,800 FROM THE STATE OFFICE OF HOMELAND SECURITY THROUGH THE COUNTY OF FRESNO, AND AUTHORIZING COMPLETION OF RELATED DOCUMENTS

1. RESOLUTION - 13TH AMENDMENT TO AAR 2004-209 APPROPRIATING \$713,80 IN GRANT FUNDS FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) TO FUND EQUIPMENT FOR TERRORIST FIRST RESPONDERS, TERRORISM PREVENTION AND CITIZEN CORPS PROGRAM (FAILED DUE TO THE NEED FOR 5 AFFIRMATIVE VOTES)

Councilmember Calhoun noted the grant funds would be used to purchase various things and stated the purchase of an airplane caught his eye, spoke to the issue and expressed his concerns stating Fresno was a city and not a county or an air force, and questioned why an airplane was needed, what the payoff would be, and if the sheriff's department had an airplane, with Chief Dyer responding. Councilmember Calhoun stated the department should be talking about joint planning with the sheriff's department and added the purchase of an airplane did not make a lot of sense to him.

Councilmember Duncan stated the purpose of the grant was to determine urgent needs for providing safety to citizens and upon his question Chief Dyer stated the airplane was needed, he did not consider it a luxury item, and spoke to an aircraft's importance in surveillance. Councilmember Duncan stated we were in a different world and different times, this was not a toy, and if Homeland Security did not feel this was an important tool in the battle on terrorism they would have discouraged this from happening, and made a motion to approve staff's recommendation.

Chief Dyer and City Attorney Montoy responded to questions and comments of Councilmember Boyajian and President Castillo relative to who would fly the plane, if there were any jurisdictional issues, if the plane would be used for terrorists attacks, if there was any way to partner with the sheriff's department, **(5 - 0)** and concern with the cost of the aircraft and if there were any alternatives for the use of those funds. President Castillo stated he wanted to discuss the issue in depth with Chief Dyer as this was not a good use of tax dollars at this time but might be in the future. Councilmember Calhoun stated staff needed to stop and take a breath, talk with the sheriff about partnering and bring forth information on what the sheriff's department controls and does to give him a sense of comfort; stated he would have to vote yes or no and the lack of information put him in a bind as a "no" vote would make him a bad guy against homeland security; and questioned if the motion-maker would split the motion to vote on the airplane separate from the rest of the equipment.

Upon the request of City Manager Hobbs, Chief Dyer explained how his proposal was in conjunction with other agencies to approach terrorism on a regional basis, stated the airplane would be for the entire county and not just the police department, and

emphasized this was not a luxury item and added he was offended that Council would think he would bring forth as such in these tough fiscal times.

144-98

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Councilmember Sterling spoke to what she learned about needed equipment with the Crippen fire and to the importance of being prepared for any emergency, requested Chief Dyer take the time to meet with those council members who are uncomfortable and address the issue of "what if" a terrorist attack were to occur and what our responsibility would be, and stated council members needed to be more informed on the homeland security issue both--good and bad--so Council would not be questioning what the Chief was doing , with Chief Dyer responding throughout. Upon question, Ms. Montoy clarified a closed session on homeland security somehow did not get put on the agenda as previously requested by Councilmember Calhoun and stated staff would work on putting something on the agenda soon. Mr. Hobbs added for clarity Council has been previously briefed in closed session with the FBI on the seriousness of the terrorism threat. Councilmember Calhoun briefly left the meeting at 12:03 p.m. Upon question of Councilmember Dages, Ms. Montoy stated there were no facts to establish an emergency to the place the item on the agenda by motion today.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2004-347 hereby adopted, and the above AAR resolution failed, due to the need for five affirmative votes, by the following vote:

Ayes :	Dages, Duncan, Perea, Sterling
Noes :	Boyajian, Castillo
Absent :	Calhoun

Councilmember Duncan stated a very serious situation just occurred and questioned what Council's options were. President Castillo made a motion to bring the AAR resolution back in one week after he has an opportunity to meet with Chief Dyer and discuss this. Councilmember Calhoun returned to the meeting at 12:05 p.m. City Clerk Klisch and Mr. Hobbs clarified by Council's vote the grant funds were accepted but the funds could not be spent. Councilmember Dages noted Councilmember Calhoun was back and asked if Council could re-vote. A motion was made by Councilmember Dages reconsider the AAR, which motion was seconded by Councilmember Duncan. Councilmember Calhoun left the meeting at 12:06 p.m. and Councilmember Dages withdrew his motion.

Councilmember Boyajian noted the issues were what other equipment could be looked at and what the alternatives were stating it was difficult for Council to vote on what staff says "this is what we have to do" and questioned what the hurry was. Councilmember Calhoun returned to the meeting at 12:07 p.m. President Castillo stated he would meet with the Chief and he was hoping a closed session item would be scheduled soon to update Council and inform them of the severity of the issue and action could be taken in open session thereafter on the AAR. There was no further discussion.

(1-R) BILL - REINTRODUCTION OF BILL REPEALING ARTICLE 2 OF CHAPTER 6 AND ADDING ARTICLE 2 TO CHAPTER 6 TO THE FRESNO MUNICIPAL CODE RELATING TO CABLE COMMUNICATIONS SYSTEMS

Upon question of Councilmember Boyajian, Christine Walter of Comcast explained what concerns and issues Comcast had with the new proposed ordinance. Councilmember Boyajian noted Ms. Walter stated there were some inconsistencies and some provisions were contrary to federal and questioned if there were any legal issues and if the city attorney reviewed the issue, with City Attorney Montoy responding.

Councilmember Boyajian made a motion to continue the matter so staff and Comcast could continue talks on their concerns, which motion was seconded and later acted upon.

City Manager Hobbs stated like the city attorney he, too, was surprised and disappointed to hear Comcast still had concerns, stated he thought their concerns had been addressed and that was why the bill was being presented for re-introduction, expressed concern that at the 11th hour more issues were raised, stated he saw this as an obstructionist tactic and the reason was the updated ordinance would put the city in a better position to defend its interest and assist the city in upcoming franchise negotiations, and clarified big money was involved and the updated ordinance was needed to protect the city's interest. Councilmember Calhoun agreed stating negotiations took place and there was no reason to delay and urged Council to reject the motion and move this forward.

Upon the advice of the city attorney, Councilmember Duncan recused himself from the proceedings due to stock ownership he had with Comcast and left the meeting at 12:22 p.m.

Councilmember Boyajian stated he disagreed with the city manager stating AT&T Comcast has invested a lot of money in the city, and expressed concern with the obstructionist comment and spoke in support of a one week delay. Upon question of President Castillo, Ms. Walter stated there were issues in this final ordinance that Comcast had not discussed with staff, further elaborated on the issue and their position and stated she was optimistic for some mutual resolution, and stated Comcast was a dedicated business partner with the city noting paid over \$2 million in franchise fees and over \$325,000 in additional services for the community.

144-99

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Franchise Renewal Working Group Chair Lynch spoke to the history of the issue, the time given to Comcast, the legal issues that were dealt with, and the impasse issues.

Barbara Hunt, 2475 S. Walnut, spoke to the issue.

On motion of Councilmember Boyajian, seconded by Acting President Perea, duly carried, RESOLVED, Item 1-R continued one week to allow for continued discussions between staff and Comcast, by the following vote:

Ayes :	Boyajian, Dages, Perea, Sterling, Castillo
Noes :	Calhoun
Absent :	None
Recused :	Duncan

LUNCH RECESS - 12:30 P.M. - 2:03 P.M.

(2-B) BILL NO. B-89 - ORDINANCE NO. 2004-92 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO PROCUREMENT OF LOW EMISSION VEHICLES BY CITY DEPARTMENTS

(6 - 0) On motion of Councilmember Calhoun, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Bill No. B-89 adopted as Ordinance No. 2004-92, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

(2-C) DISCUSSION REGARDING URBAN FOREST WITH DIRECTION TO STAFF

1. BILL - REPEALING ARTICLE 3 OF CHAPTER 11 AND ADDING ARTICLE 3 TO CHAPTER 11, AND AMENDING SUBSECTION (c) OF SECTION 12-1206 OF THE FRESNO MUNICIPAL CODE RELATING TO STREET TREES AND PARKWAYS

Assistant City Manager Ruiz reviewed the issue and the changes to the ordinance, all as contained in the staff report as submitted, and City Attorney Montoy further clarified council members would still have the authority to ask that a tree be removed and the ordinance did allow for appeals to be taken to the hearing officer. Interim Public Works Director Kirn expanded further on the tree planting list. Mr. Ruiz noted staff wanted full workshop on the urban forest and clarified the ordinance was independent of that.

Barbara Hunt, 2475 S. Walnut, expressed concerns due to the water shortage and of a problem tree at her relative's house on Eden between Arthur and Fruit. Councilmember Sterling stated her office would look into the issue.

Lengthy discussion ensued. Councilmember Dages spoke to his efforts to get twelve trees on the list removed and to problems encountered by people--especially seniors, relative to the ordinance expressed concern with the no appeal to Council provision stating the public needed the ability and had a right to appeal to their council member, and made a motion to refer the bill back to staff to expand the removal process, which motion was seconded by Councilmember Duncan and later modified. Councilmember Boyajian and Acting President Perea concurred with Councilmember Dages' concerns and requested additional modifications to include people/seniors unable to maintain their trees, the damage to structures by trees, and an appeal process. Upon question, Councilmember Dages clarified his

motion was to refer the ordinance to expand the removal process, expand the definition of public nuisances and expand the appeal process.

City Manager Hobbs suggested besides the four Ds (diseased/dying/dead/damaged) a fifth tightly defined criteria could be posing a public nuisance and a sixth item, the replacing or removal of a tree through an appeal process, could be handled through infrastructure budgets or privately by the owner; stated it was important to be seen as reasonable but also be protective of the trees and explained; and cautioned council about establishing themselves as the hearing body as a lot more time could be added to the already lengthy council meetings with numerous appeals. Mr. Ruiz stated another criteria that could be considered was the aging of the forest, spoke to the importance and need to identify funds to replace/replant the over 30,000 trees that have been taken out, and stated staff would return with tight criteria that also suggests that trees have to be planted back after they are removed, with Councilmember Dages stating that was fine.

144-100

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Councilmember Calhoun stated this was a trip down the wrong path and Council would live to regret it; stated Council would be the final arbitrator and accept any excuse and strip our city; stressed he did not want to sit and listen to people who would be lined up making their case for why a tree should be removed adding that was what staff was for; and emphasized trees needed to be protected, Council was doing what was easy, and this was the classic example of the heavy mallet being used to crush a mosquito.

Councilmember Duncan spoke to his support for the motion stating this would help to manage the urban forest, stated citizens should have the right to appeal to those they elect, and complimented staff on the ordinance and added this was a huge step forward.

Upon question of President Castillo, Mr. Kirm stated there were approximately 25,000 absent trees currently. President Castillo stated staff needed to be more proactive in identifying funds to replant trees and clarified trees help clean the air and stated Council should not be looking at ways to cut them down.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the ordinance bill referred back to staff to expand the removal process, the definition of public nuisances, and the appeal process, by the following vote:

Ayes : Boyajian, Dages, Duncan, Perea, Sterling
Noes : Calhoun, Castillo
Absent : None

(2:00 P.M. #1) **CLOSED SESSION:**
(A) CONFERENCE WITH LEGAL COUNSEL/EXISTING LITIGATION - CASE NAME:
2. DIANNA LILES-DRIVER V. CITY OF FRESNO

The City Council met in closed session in Room 2125 at the hour of 2:40 p.m. to consider the above issue and reconvened in regular open session at 3:04 p.m.

(2-E) **RESOLUTION NO. 2004-348 - 6TH AMENDMENT TO PAR 2004-210 ADDING ONE STAFF ASSISTANT TO THE ANTI-GRAFFITI PROGRAM UNDER CODE ENFORCEMENT, AS AMENDED, FOR A 6-MONTH PILOT PROJECT**

Code Enforcement Manager Villa reviewed the issue as contained in the staff report as submitted and expanded on the need for the position.

Councilmember Calhoun stated he did not quite understand why this position, and not one in parks, streets, etc. who are tightly strained, was being supported by the administration when the city manager has been towing the line, and stated he was having a hard time with this and he was not convinced the position was needed. City Manager Hobbs concurred he has been very stringent about approving positions; advised staff came to him three times about putting this on the agenda and he allowed it to come forth due to Mr. Villa's exceptional leadership and his position that this would have an impact, staff's remarkable success with prevention, and because funding for the position was identified; suggested Council approve this and revisit the issue next year at budget season to see the results; and reiterated he was very impressed with the case presented to him by about the impact this prevention was having with the kids.

Councilmember Boyajian expressed his concern with the graffiti issue stating parents should be the ones to educate their children and not the schools, (7 - 0) spoke to its impact on businesses and stated these funds should go into punishment and helping victims and elaborated, and concurred education was good but he has seen too much.. Mr. Villa responded to questions of Councilmember Duncan

relative to the *Bob Bring-It-Down* program including the schools where it has been presented and its success/results/statistics. Councilmember Duncan stated he could not support this as there was no evidence to show this program was effective/working, and stated prevention was critical, this needed to be measured and he was not seeing that, and he also felt the funds should go to punishment, and stated the intent was good but he was not convinced the city would get a return on the investment.

Acting President Perea spoke in support of the program and what staff was doing, stated enforcement would always be there but one critical piece that was underfunded was education, made a motion to approve staff's recommendation (which was seconded by Councilmember Dages), and spoke further to the seriousness of the graffiti and the graffiti detectives being taken off their assignment and asked that Council be informed on when that person would be back on graffiti duty.

144-101

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Councilmember Calhoun stated he would support this if the program is reviewed in 6 months with measurable objectives brought forth, requested single this issue out during budget season, and asked the motion maker to accept the modification. Acting President Perea stated he was supportive of both proposals and Mr. Villa stated he would agree to a 6-month program and report back with some measurable results.

On motion of Acting President Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2004-348 hereby adopted, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : Boyajian
 Absent : None

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(2-F) BILLS FOR INTRODUCTION AMENDING THE FRESNO MUNICIPAL CODE RELATING TO THE FIRE AND POLICE AND THE EMPLOYEES RETIREMENTS SYSTEMS

1. CLARIFICATION OF OPTIONAL FORMS OF SETTLEMENT AND THE ADDITION OF POST-RETIREMENT OPTIONAL FORMS OF SETTLEMENT:

a. BILL NO. B-93 - REPEALING SECTION 2-1733, ADDING SECTIONS 2-1733 AND 2-1733.1, AND AMENDING SECTION 2-1740 IN THE FIRE AND POLICE RETIREMENT SYSTEM

b. BILL NO. B-94 - REPEALING SECTION 2-1733A, ADDING SECTION 2-1733.1 AND 2-1733.1A, AND AMENDING SECTION 2-1740A IN THE FIRE AND POLICE RETIREMENT SYSTEM

c. BILL NO. B-95 - REPEALING SECTION 2-1841.1 AND AMENDING SECTION 2-1848 IN THE EMPLOYEES RETIREMENT SYSTEM

2. COMMUNITY PROPERTY STATUS OF PRE-RETIREMENT SURVIVORSHIP BENEFITS AND MAKING TECHNICAL CORRECTIONS TO THE MARITAL DISSOLUTION PROVISIONS:

a. BILL NO. B-96 - AMENDING SECTIONS 2-1738, 2-1739 AND 2-1740 IN THE FIRE AND POLICE RETIREMENT SYSTEM

b. BILL NO. B-97 - AMENDING SECTION 2-1738A AND 2-1740A IN THE FIRE AND POLICE RETIREMENT SYSTEM

c. BILL NO. B-98 - AMENDING SECTIONS 2-1846, 2-1847 AND 2-1848 IN THE EMPLOYEES RETIREMENT SYSTEM

Retirement Administrator McDivitt reviewed the issue as contained the report to Council as submitted and along with City Attorney Montoy and City Manager Hobbs responded to comments/questions of Councilmember Calhoun relative to whether there was anything here to cause financial concerns, if this was a clean-up/housekeeping type issue, and if the city attorney and city manager had any concerns. A motion and second was made to introduce the ordinance bills. Upon question of Councilmember Boyajian, Mr. McDivitt further clarified the intent of the bills and how these would conform to other retirement systems out there.

On motion of Councilmember Calhoun, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill Nos. B-93, B-94, B-95, B-96, B-97 and B-98 introduced before the Council and laid over, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

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(3:15 P.M.) APPEARANCE BY THE MCCAFFREY GROUP AND RESIDENTS TO DISCUSS BELLEVIERA (CFD NO. 2) - COUNCILMEMBER CALHOUN

Councilmember Calhoun gave an overview of the issue, stated the intent of this issue was to provide a forum for Mr. McCaffrey and the residents to share their concerns, stated even though this issue was going to get resolved this was part of a larger issue with new developments and developers wanting to upgrade amenities and this was a classic example of the work not happening the way it should.

Bob McCaffrey, 1175 W. Shaw, submitted written material for the record, a copy of which is on file in the office of the city clerk, and stated this was more than just Belleviera and the two issues of concern were the maintenance of CFDs city-wide and the accountability of taxpayers' money and elaborated.

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Discussion ensued on how this has been a serious issue, on the transfer of the function/responsibility to the streets division, the lack of accountability, and questions were presented by Councilmembers Dages and Sterling relative to who was going to help bring this landscaping up to par, the purchase of equipment, the missing lawnmower, concern with other areas in need of maintenance and if they will now be taken area of, with Mr. McCaffrey and Assistant Public Works/Streets Director Dilley responding throughout.

Councilmember Duncan stated the city was now on the road to solving the problem and reiterated this was not a new issue, and stated with the function transition he was impressed with what has been happening and what he has seen and explained **(8 - 0)**.

Michelle Smith, Belleviera resident, 5186 W. Everett, commented on the issue, stated she pays \$700 a year and expressed her concern with the lack of landscaping for several months, questioned where the money was and if residents could see an accounting, and stated the funds collected should stay in the area.

President Castillo stated legitimate concerns were raised, stated the costs for a lot of the CFDs were outdated and he wanted to see included in staff's report how much it will take to bring any district back to its original condition, stated a comprehensive report was needed, questioned when this issue would be coming back to Council, if Streets has received during the transition all the appropriate personnel and associated funds, why the entire amount has not been transferred over, if the \$100,000 still being debated could be loaned to Belleviera with the understanding it would be paid back once it is determined where it belongs, what staff could do with \$100,000, and when this issue would be brought back to Council including the \$100,000, with City Manager Hobbs and Mr. Dilley responding throughout. There was no further discussion.

(2-G) BILL NO. B-99 - ADDING CHAPTER 22 TO THE FRESNO MUNICIPAL CODE TO ESTABLISH CERTAIN PROCEDURES RESPECTING SPECIAL TAX DISTRICTS

Interim Public Works Director Kirn gave an overview of the issue as contained in the staff report as submitted.

On motion of President Castillo, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Bill No. B-99 introduced before the Council and laid over, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

(3-C) DISCUSSION AD DIRECTION TO SCHEDULE A NOVEMBER AND JANUARY COUNCIL AGENDA ITEM TO DISCUS THE CURRENT AD FUTURE FEE STRUCTURE AND RESOURCES FOR PROVIDING CITY SERVICES - COUNCILMEMBER CALHOUN

Laid over one week at the direction of Councilmember Calhoun.

(4:00 P.M.) TRIMESTER PLAN AMENDMENTS HEARINGS:

(A) JOINT PUBLIC HEARING WITH THE REDEVELOPMENT AGENCY TO CONSIDER PLAN AMENDMENT AND REZONING MATTERS RELATING TO THE HOPE VI PROJECT FILED BY DIRK POESCHEL LAND DEVELOPMENT SERVICES ON BEHALF OF THE HOUSING AUTHORITY OF CITY OF FRESNO

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-04-17, R-04-42 (JOINT ACTION)

2. AGENCY RESOLUTION - AMENDING TWO REDEVELOPMENT PLANS, AS REFLECTED IN THE 2004 AMENDED AND RESTATED URBAN RENEWAL PLAN FOR THE SOUTHWEST FRESNO GNRA PROJECT AND THE 2004 AMENDED AND RESTATED REDEVELOPMENT FOR THE FRUIT/CHURCH PROJECT (AGENCY ACTION)

a. BILL - APPROVING THE PROPOSED PLAN AMENDMENTS AS REFLECTED BY THE 2004 AMENDED AND RESTATED SOUTHWEST FRESNO GNRA PROJECT URBAN RENEWAL PLAN (JOINT ACTION)

b. BILL - APPROVING THE PROPOSED PLAN AMENDMENTS AS REFLECTED BY THE 2004 AMENDED AND RESTATED FRUIT/CHURCH PROJECT REDEVELOPMENT PLAN (JOINT ACTION)

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3. CONSIDER PLAN AMENDMENT NO. A-04-17, REZONE APPLICATION NO. R-04-42 AND ENVIRONMENTAL FINDINGS FILED BY KIRK POESCHEL LAND DEVELOPMENT SERVICES FOR THE HOUSING AUTHORITY OF THE CITY OF FRESNO, 94 ACRES LOCATED IN THE HOPE VI PROJECT AREA GENERALLY BOUND BY W. CALIFORNIA, FRESNO STREET AND MARTIN AVENUE ON THE NORTH, S. WALNUT TO THE EAST, W. CHURCH ON THE SOUTH, AND S. WEST AVENUE ON THE WEST (COUNCIL ACTION)

a. JOINT RESOLUTION - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE EDISON COMMUNITY PLAN TO CHANGE THE PLANNED LAND USES IN THE HOPE VI PROJECT AREA

b. JOINT RESOLUTION - AMENDING THE OFFICIAL ZONE MAP TO REZONE VARIOUS PARCELS IN THE HOPE VI PROJECT AREA

Councilmember Sterling recused herself from the above proceedings pursuant to the advice of the city attorney and the rules of the Political Reform Act stating her family, the Sterling Family Trust, owned land within the project area and left the meeting at 4:20 p.m.

City Attorney Montoy clarified Council would be convening in joint session with the Redevelopment Agency for Item "A" only and that Councilmember Sterling would return for the other city plan amendments.

The City Council convened in joint session with the Redevelopment Agency at the hour of 4:22 p.m.

Chair Boyajian announced the time had arrived to consider the issue and opened the hearing.

Planning & Development Director Yovino reviewed the Hope VI project as contained in the staff report as submitted. City Attorney Montoy spoke to the parameters of the hearing stating due to Redevelopment Law the hearing would be opened, public testimony would be given/heard, the public hearing would be closed and continued to October 19th to allow time for staff to respond to any testimony or written objections, and that Council would deliberate and take action on the 19th without necessarily hearing any additional evidence. President Castillo expressed concern with closing public comment before knowing what the responses are to objections stating he wanted to get the public's input on staff's responses, with Ms. Montoy responding and clarifying issues.

Ned Stacy, Executive Director of the Housing Authorities of the City & County of Fresno, Dirk Poeschel, 923 Van Ness, on behalf of the applicant, and Redevelopment Agency Project Manager Freeman spoke to the background of the Hope VI Program and the Housing Authority's efforts to seek funding, the proposed project, the land use, rezoning and planning concept, and the precise changes to the various plans and the findings that the joint bodies need to make and recommended approval.

Relative to the Yip property referenced by Mr. Poeschel, Mr. Yovino clarified the property owners had no objection to their properties being removed from the plan and requested their attorney, Mr. McKelvey, state that for the record as part of his presentation

Speaking to the issue were: W. Ross Tate, 2318 S. Walnut, opposed to the project (**9 - 0**); Barbara Hunt, 2475 S. Walnut, opposed; Ruben Scott, Chair of Housing Authority City Commissioners and Pastor of Providence Baptist Church, Brunette Harris, 909 E. Chester, opposed; Ellington Jordan, 2226 N. Carol, opposed; James Hendricks, 4949 N. Crystal, support; Helen Jones, 2963 Yorktown Ct./205 W. Atchison, opposed; Wesley Flowers, P.O. Box 11278, who spoke to members of the southwest Fresno community being victimized by code enforcement inspectors; Jim McKelvey, 1690 W. Shaw, who stated the Yips supported the removal of their property from the plan and spoke in support of the plan; Margie Haymon, 1155 E. Dorothy, opposed; Sylvester Hall, President of Coast to Coast

Petroleum, 2331 Cromwell, support; Dirk Harris, 222 W. Atchison, opposed; and Diane Bennett Smith, 1540 W. La Sierra Drive, opposed.

Upon call, no one else wished to be heard and Chair Boyajian closed the public hearing.

RECESS - 5:44 P.M. - 6:12 P.M.

Interim Agency Executive Director Murphey gave a summary of the issue and project; clarified the Agency has not initiated any negotiation for acquiring property and advised there were a number of steps and a very long process proceeding any acquisition; stated as the plan moves forward staff would work with those who may be affected to minimize hardship; and stated the action being requested was limited to approving or not approving the plan designation and clarified any further action would come back to the joint bodies on a step by step basis.

Mr. Stacy stated the funds were specifically targeted for the Yosemite Village Revitalization Area and advised if the revitalization area does not occur the money would go away as the \$20 million could not be used on any other housing project or anywhere else in the city; and spoke to staff's outreach and educational efforts to home owners and renters in the revitalization area **(10 - 0)** and clarified issues relative to the 10 property owners that will be affected by the movement of the aquatic center.

144-104

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Chair Boyajian advised this was the first step, the meeting was being continued to October 19, 2004, at 5:00 p.m., and the public hearing was officially closed.

The joint bodies adjourned their meeting at 6:18 p.m. and the City Council reconvened in regular session at 6:19 p.m.

City Attorney Montoy advised she would be recusing herself from proceedings due to items "G" and "H" as they were located close to her residence at 1830 S. Minnewawa and Chief Assistant City Attorney Sanchez would preside and assist Council.

(B) CONSIDER PLAN AMENDMENT APPLICATION NO. A-04-10, REZONE APPLICATION NO. R-04-30, AND ENVIRONMENTAL FINDINGS FIELD BY QUAD KNOFF, INC., PROPERTY LOCATED ON THE NORTHEAST CORNER OF W. CLINTON AND N. BRAWLEY AVENUES IN COUNCIL DISTRICT 3

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-04-10, R-04-30, C-04-72

2. RESOLUTION NO. 2004-349 - DENYING AMENDMENT TO THE 2025 FRESNO GENERAL PLAN AND THE WEST AREA COMMUNITY PLAN

Councilmember Sterling returned to the meeting at 6:20 p.m. Planning Manager Unruh gave an extensive review of the issue as contained in the staff report as submitted, using maps to illustrate, and noted staff was recommending denial and elaborated on staff's reasons and position at length.

Emory Wishon, 1690 W. Shaw, on behalf of the applicant, advised issues of concern to the neighborhood and the West Area committee were resolved, gave a chronological overview of the project and process, and elaborated on why Council should support this project.

Speaking in support of the project were: Allen Mendersee, 5238 W. Garland, on behalf of the West Area Committee; Russell Yockey, 2436 N. Brawley; Aaron Stark, Walgreens, 114 E. Shaw, Suite 100; and Joan Johnson, 3618 N. Chateau.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Duncan stated it was unusual to have something related to the general plan that staff was recommending denial on and upon his request Planning and Development Director Yovino explained why spot zoning and parcelization were important and why the general plan was discouraging that after responding to comments made by Mr. Wishon. Councilmember Duncan clarified this had nothing to do with the proposed project or Walgreens, stated this was about a land use decision and added because the project was not consistent with the general was reason enough to deny, and stated nothing was presented that justified abandoning a general plan principal and made a motion to approve staff's recommendation, which motion was seconded and acted upon after additional discussion.

Councilmember Sterling spoke in opposition to the motion **(11 - 0)** stating there were other factors Council needed to take

into consideration and explained, and stated projects needed to be considered on a case-by-case basis and spoke in support of this project stating it was the best use for this parcel, and spoke to the need for Council to sometimes make concessions, and elaborated throughout. Councilmember Boyajian stated planning was helter-skelter out there and Walgreens was making a good attempt and was doing the right things and explained, and stated there would be no big environmental impact and the property was a great place for Walgreens. Councilmember Calhoun stated the message he was hearing was dollars trump good planning, spoke to what votes for or against the general plan meant and stated the general plan was next to godliness to him, and stated this project was just wrong and spoke to his support of staff's position. Mr. Wishon and Mr. Yovino responded to questions of Acting President Perea and President Castillo relative to when the applicant found out this project was inconsistent for that property, what the adjacent uses were, and number of homes per acre were called for in the general plan. President Castillo stated he considered the general plan to be a living document and a blueprint for growth which meant Council has the ability at any time to change it based on the needs of the community, and stated he was hearing the need was there and he felt Council owed it to anyone who wanted to develop to give them a fair shake and treat the general plan as a living document and massage it and work it.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, dully carried, RESOLVED, the environmental finding of Mitigated Negative Declaration for Environmental Assessment No. A-04-10/R-04-72, dated August 10, 2004, hereby approved; the above entitled Resolution No. 1004-349 denying the plan amendment adopted; and Rezone Application No. R-04-30 denied, by the following vote:

144-105

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Ayes : Calhoun, Dages, Duncan, Perea
 Noes : Boyajian, Sterling, Castillo
 Absent : None

(C) CONSIDER PLAN AMENDMENT NO. A-04-12 AND ENVIRONMENTAL FINDINGS, FILED BY GEORGE BEAL ON BEHALF OF JASWANT KAHLOH NORTHWEST CORNER OF S. MAPLE AND E. JENSEN IN COUNCIL DISTRICT 5

1. CONSIDER AND ADOPT A MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-12

2. **RESOLUTION NO. 2004-350** - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE ROOSEVELT COMMUNITY PLAN

(D) CONSIDER PLAN AMENDMENT NO. A-04-13 AND ENVIRONMENTAL FINDINGS, FILED BY CAL STAR HOMES, SOUTH SIDE OF W. ASHLAN BETWEEN N. CORNELIA AND N. POLK AVENUES IN COUNCIL DISTRICT 1

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. A-04-13, R-5356

2. **RESOLUTION NO. 2004-351** - AMENDING THE 2025 FRESNO GENERAL PLAN DN THE WEST AREA COMMUNITY PLAN

(E) CONSIDER PLAN AMENDMENT A-04-08, REZONE APPLICATION NO. R-04-21 AND ENVIRONMENTAL FINDINGS, RELATING TO THE AFOREMENTIONED PROJECTS AS WELL AS TO VESTING TENTATIVE PARCEL MAP NO. 2004-07, VACATION OF AN UNIMPROVED PORTION OF W. AUDUBON DRIVE, AND IMPLEMENTATION OF A POST CLOSURE DEVELOPMENT. THESE RELATED APPLICATIONS HAVE BEEN FILED BY RIVERVIEW ESTATES FOR PROPERTY LOCATED ON THE NORTH SIDE OF W. NEES BETWEEN THE ALIGNMENTS OF N. INGRAM AND N. PALM IN COUNCIL DISTRICT 2

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. A-04-08, R-04-21, C-04-115, R-2004-07

2. **RESOLUTION NO. 2004-352** - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE BULLARD COMMUNITY PLAN

3. **BILL NO. B-100 - ORDINANCE NO. 2004-93** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE ABOVE-MENTIONED 2 ACRES FROM R-1/BA-20/UGM AND R-1/BA-20/BP/UGM TO C-P/BA-20/UGM AND C-P/BA-20/BP/UGM

(F) CONSIDER PLAN AMENDMENT APPLICATION NO. A-04-14, REZONE APPLICATION NO. R-04-39, AND ENVIRONMENTAL FINDINGS, FILED BY JPI DEVELOPMENT, SOUTH SIDE OF E. BARSTOW BETWEEN N. FRESNO STREET AND FREEWAY 41 IN COUNCIL DISTRICT 7

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-14, R-04-39, C-04-112, TPM-2004-12

2. **RESOLUTION NO. 2004-353** - AMENDING THE 2025 FRESNO GENERAL PLAN, HOOVER COMMUNITY PLAN AND FRESNO YOSEMITE INTERNATIONAL AIRPORT ENVIRONS PLAN

3. **BILL NO. B-101 - ORDINANCE NO. 2004-94** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-A TO R-4/cz

(I) CONSIDER PLAN AMENDMENT APPLICATION NO. A-04-16, REZONE APPLICATION NO. R-04-41, AND ENVIRONMENTAL FINDINGS, FILED BY CENTRAL VALLEY RV, NORTHEAST AND SOUTHEAST CORNERS OF N. MARKS AND W. PRINCETON AVENUES IN COUNCIL DISTRICT 3

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-16

2. **RESOLUTION NO 2004-354** - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE WEST AREA COMMUNITY PLAN

3. **BILL NO. B-102 - ORDINANCE NO. 2004-95** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM C-6 TO C-M

Planning and Development Director Yovino stated the above applications could be grouped together and gave a separate overview of each item, all as contained in the staff reports as submitted.

Speaking to some of the applications were: Dirk Poeschel, 923 Van Ness, who spoke to **Item "I"** on behalf of the property owner stating improvements were being made and would continue to be made and stated he looked forward to the CUP coming forward; Allen Mendersee, 5238 W. Garland, on behalf of West Area Committee, who spoke to **Item "I"**, who requested the matter be continued as he did not feel the CUP was in the best interest of the area and advised of their concerns; and Jim McKelvey, 1690 W. Shaw, on behalf of the applicant in **Item "F"**, who stated this was classic in-fill development and consistent with the general plan.

Upon call, no one else wished to be heard and President Castillo closed the hearings.

Acting President Perea spoke in support of Item "F" and made a motion to approve. It was determined to vote on each item separately and in order.

ITEM "C":

144-106

9/28/04

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the finding of a Mitigate Negative Declaration for Environmental Assessment No. A-04-12 dated August 11, 2004, hereby approved, and the above entitled Resolution No. 2005-350 hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

ITEM "D"

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding of Mitigate Negative Declaration for E.A. No. A-04-13/T-5356, dated August 11, 2004, hereby approved, and the above entitled Resolution No. 2004-351 hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

ITEM "E"

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the Mitigated Negative Declaration prepared for E.A. No. A-04-08/R-04-021/TPM-2004-07/C-04-115, dated July 23, 2004, hereby approved, and the above entitled Resolution No. 2004-352 approving the plan amendment hereby adopted, and the above entitled Bill No. B-100 rezoning the property adopted as Ordinance No. 2004-93, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

ITEM "F"

On motion of Acting President Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, the environmental finding of Mitigated Negative Declaration prepared for E.A. No. A-04-14/R-04-39/C-04-112/TPM-2004-12, dated August 11, 2004, hereby approved, and the above entitled Resolution No. 2004-353 approving the plan amendment hereby adopted, and the above entitled Bill No. B-101 rezoning the property adopted as Ordinance No. 2004-94, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : Boyajian
 Absent : None

ITEM "I":

A motion and second was made to approve staff's recommendation. Councilmember Sterling stated she toured the site and suggested a meeting be held with the West Area Committee and Mr. Brewer on his plans, advised his plan would eventually eliminate a lot of the street areas that are of concern, and spoke further to the plan and stated she hoped concerns could be addressed.

Councilmember Calhoun, as a member of the Highway 99 Beautification committee, requested action be delayed so the committee could review the issue, see what the concerns were, and tour the site, and stated it was only fair to himself and the two committees for Council to give them a few weeks to study the issue or he would have to vote no.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for E.A. No. A-03-16/R-04-149, dated August 11, 2004, hereby approved; the above entitled Resolution No. 2004-354 approving the plan amendment hereby adopted, and the above entitled Bill No. B-102 rezoning the property adopted as Ordinance No. 2004-95, by the following vote:

144-107

9/28/04

Ayes : Dages, Duncan, Perea, Sterling, Castillo
 Noes : Boyajian, Calhoun
 Absent : None

(G) CONSIDER PLAN AMENDMENT APPLICATION NO. A-03-18, REZONE APPLICATION NO. R-03-79, AND ENVIRONMENTAL FINDINGS, FILED BY GRANVILLE HOMES, SOUTH SIDE OF E. CHURCH BETWEEN S. SUNNYSIDE AND S. FOWLER IN COUNCIL DISTRICT 5

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. A-03-18, R-03-79, C-04-148, T-5248

2. RESOLUTION NO. 2004-355 - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE ROOSEVELT COMMUNITY PLAN. THIS PLAN AMENDMENT APPLICATION ALSO PROPOSES TO DELETE THE EQUESTRIAN PORTION OF THE MULTI-USE TRAIL ALONG E. JENSEN BETWEEN S. FOWLER AND S. CLOVIS

3. BILL NO. B-103 - ORDINANCE NO. 2004-96 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT SITE FROM R-R TO R-1/UGM FOR 117 ACRES AND TO R-2/UGM FOR 19 ACRES

Planner Chamberlain reviewed the issue as contained in the staff report as submitted and recommended approval.

Jeff Roberts, Granville Homes, stated they concurred with staff's recommendation on the plan designation change and rezone and clarified their position on a park and **(12 - 0)** the equestrian trail.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Dages stated he did not support the equestrian trail along the area and upon his question Planning & Development Director Yovino spoke to the history of the trail, advised the subject portion of the trail could be eliminated today, and responded to questions relative to reimbursement of park fees. Councilmember Dages commended staff and stated this was the kind of development that was wanted in southeast Fresno.

On motion of Councilmember Dages, seconded by President Castillo, duly carried, RESOLVED, the finding of a Mitigated Negative Declaration for E.A. No. A-03-18/R-03-79/C-04-148/T-5248 dated August 11, 2004, hereby approved, the above entitled Resolution No. 2004-355 approving the plan amendment hereby adopted, *including deletion of the equestrian portion of the multi-use trail as requested*, and the above entitled Bill No. B-103 rezoning the property adopted as Ordinance No. 2004-96, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : Boyajian
 Absent : None

(2:00 P.M. #1) CLOSED SESSION:

(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME:

1. JOANNE BLACK V. COF, ET AL.

Laid over one week.

(B) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. CITY OF FRESNO PROFESSIONAL EMPLOYEES' ASSOCIATION (CFPEA)
2. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 100 (IBEW)
3. INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS LOCAL 39
4. FRESNO POLICE OFFICERS' ASSOCIATION (FPOA MANAGEMENT UNIT)

Laid over one week.

(3-A) RESOLUTION - OPPOSING PROPOSITION 68, THE GAMING REVENUE ACT OF 2004 - COUNCILMEMBER DUNCAN, MAYOR AUTRY AND ACTING PRESIDENT PEREA

144-108

9/28/04

Councilmember Duncan gave an overview of the issue and stated the proposition was bad policy, and made a motion to adopt the resolution, which motion was seconded by Acting President Perea.

Councilmember Boyajian stated he would like to have seen *Yes On Proposition 68* literature as Club One supported it, Club One paid a lot of taxes into the city of Fresno, and stated this could be good for the city. Upon question of President Castillo, Chief Assistant City Attorney Sanchez stated he was not equipped this date to give any background and suggested action be delayed one week so staff could provide Council with a summary. Councilmember Dages spoke to his understanding of the machines Club One got but cannot operate, Assistant City Manager Souza responded to questions relative to the additional tables and what the impact could be, and by council consensus the matter was held over one week to get information on how this would impact the city.

(3-B) DIRECT STAFF TO IDENTIFY AND PREPARE FOR COUNCIL CONSIDERATION THE ACTIONS AND DOCUMENTS NECESSARY TO CONVERT THE DESIGNATION OF FRESNO METROPOLITAN FLOOD CONTROL DISTRICT BASIN B-F FROM GROUNDWATER RECHARGE USES TO RECREATION USES - COUNCILMEMBER DAGES

Councilmember Dages reviewed the issue as contained in his memo to Council as submitted, made a motion to approve direction, and along with Assistant City Manager Souza clarified issues and responded to questions of Councilmember Calhoun on the process and what exactly this would do.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, staff directed to identify and prepare for council consideration the actions and documents necessary to convert the designation of Fresno Metropolitan Flood Control District Basin B-F from groundwater recharge uses to recreation uses, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
 Noes : None
 Absent : None

ADJOURNMENT

There being no further business to bring before the joint bodies, the hour of 8:09 p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

APPROVED on the 5th day of October, 2004.

/s/

ATTEST:

/s/

Brad Castillo, Council President

Yolanda Salazar, Assistant City Clerk